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C O N F I D E N T I A L SECTION 01 OF 03 SANAA 001698

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TAGS: [PTER](#) [ASEC](#) [PGOV](#) [YM](#)
SUBJECT: TERROR TRIALS UPDATE: PROSECUTIONS CONTINUE

REF: A. SANAA 272
[1](#)B. SANAA 2535
[1](#)C. SANAA 448
[1](#)D. SANAA 3600

Classified By: Ambassador Thomas C. Krajeski for Reasons 1.4 (b) and (d).

[1](#)1. (U) Summary: In the past three months several terror-related cases have been adjudicated in the Special Penal Court (SPC) -- Yemen's special court for terror and state security crimes -- and/or presented to the Attorney General's Office (AG) for consideration. The cases in summary are:

-- AQ Escapees: Eight re-captured Al-Qai'da (AQ) escapees from a Sanaa Political Security Office (PSO) facility remain in custody with no new charges pending at this time. On April 27, press reported that a trial has begun for PSO officers charged with "inadequate conduct" in connection to the escape.

-- Twenty-three Jihadis: On June 3, the SPC held a preliminary hearing for twenty-three Yemenis charged with counterfeiting passports and/or attempting to travel to Iraq to participate in attacks against U.S. forces.

-- 17 2: On May 21, a session in the trial of nineteen defendants charged with planning attacks on U.S. interests in Yemen was held.

-- 172 Referrals: The AG's office has completed reviewing 172 terror-related cases handed over to it by the PSO. Of those cases, ten have been and 72 more will be prosecuted on forgery-related charges. Another 92 cases will likely be dismissed.

-- Kidnapping Plot: On April 19, fourteen men were convicted of plotting attacks against U.S. and ROYG interests in the country as well as planning kidnapping U.S. nationals to secure the release of other prisoners.

-- Attempt on Ambassador's Life: On March 6, two minors were sentenced to five years each for attempting to assassinate the Ambassador in 2004.

-- Iraqis Case: On March 4, charges were dropped against four Iraqi nationals accused of plotting to attack U.S. and U.K. interests in Yemen in 2003.

Known details of the cases are noted below.

Re-apprehended AQ Fugitives

¶2. (C) On June 1, local press reported that eight of nine re-apprehended AQ prisoners who escaped from the Sanaa PSO facility in February would be released due to a lack of evidence. (Ref. A). Deputy Chief Prosecutor, Khalid al-Mawari, however, informed Legatt on May 13 that the AG's office intended to prosecute all 23 escapees together once apprehended. One re-captured escapee, Abdullah Al-Rimi, was transferred to a PSO prison in Hodeida. More details reported septel.

¶3. (C) Mawari also noted that his office turned over jurisdiction of any cases on PSO guards or administration involved with the escape to a military tribunal that would try the cases. On April 27, English language daily, "Yemen Observer," reported that a trial of PSO prison officials for "inadequate conduct" has begun. Other than that this case is being tried under military jurisdiction, no further details are available.

The 23 Jihadis Trial

¶4. (C) On June 3, the SPC held a preliminary hearing for 23 men charged with counterfeiting travel documents and attempting to travel to Iraq and Afghanistan. Two defendants were also charged with possession of firearms and one with harboring a Saudi Jihadi fugitive. Another defendant, Walid Bahabib, was also charged with escaping from an Aden PSO prison in 2000. Marawi expressed confidence that his office would win all the cases. He also warned that defendant Omar Nasir Ali was dangerous because he is suspected of assisting convicted terrorist Jamal Badawi -- a main conspirator in the USS Cole attack -- with his escape from an Aden PSO prison

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in 2003 before he was re-apprehended and tried. (Ref. B).
The next session for this case is scheduled for June 17.

17 2 Case

¶5. (U) On May 21, the SPC held a mostly uneventful session in the trial against 17 defendants charged with belonging to a cell planning attacks on U.S. interests on the orders of AQ-Iraq leader, Abu Musa al-Zarqawi. Among the defendants, five were Saudi nationals. Another two individuals were charged with aiding the five Saudis with illegally entering the country to help plan the attacks. The names of those defendants are not available at this time. (Ref. C).

Status of 172 Terror Suspects

¶6. (C) On June 3, Mawari noted that his office has reviewed 172 cases -- referred to his office in April -- for possible terror-related prosecution. In April, the ROYG announced that some of the cases referred involved attacks on ROYG and foreign interests with AQ-affiliated defendants. Per Marawi, ten of those cases have already been prosecuted and another 62 will be prosecuted for charges relating to forged passports used for travel to Iraq and Afghanistan. (Note: The ten defendants were most likely convicted of forgery charges also). Mawari also pointed out that 92 cases would be dismissed for lack of evidence. Marawi was not sure if there were eight additional cases.

Fourteen Men Convicted for Kidnapping Plot

¶7. (U) On April 19, the SPC handed down jail terms of 18 months to seven years to fourteen men, convicted of plotting to attack military and security installations in Yemen. During the trial, which began in February, the defendants admitted to planning to travel to Iraq to fight against

U.S.-led forces as well as participating in illicit training. They denied, however, that they planned to kidnap Americans and foreigners to secure the release of other prisoners. Their names have not been made available to emboffs or Legatt.

Attempt to Attack Ambassador

¶8. (C) On March 6, two defendants, Hazem al-Mass and Khalid al-Haymi were sentenced by the SPC to five-year prison sentences for a December, 2004 attempted attack on the Ambassador. (Note: While the press reported that the two attempted to throw a grenade at the Ambassador while he was shopping, in fact the case should be based on an attempt by the youth to forcibly enter a residence where the Ambassador was present. End Note). On May 13, Mawari told Legatt that both defendants received the maximum allowable sentence under Yemeni law since they were under the age of 18. As such, there are no plans to appeal the sentence. (Ref. D).

Iraqis' Charges Dropped

¶9. (C) On March 4, the Sanaa Appellate Court upheld the acquittal of four Iraqi nationals charged with plotting attacks against the U.S. and British embassies in 2003. According to Marawi, the four Iraqis -- arrested in March 2003 -- have yet to be released. He further noted that the group's alleged ringleader, Ali Rashed Al Saadi, was never captured. The other defendants' names are:

-- Ahmad Salman Dawoud al-Zubidi
-- Muhammad Mahdi Abd al-Rahman Asi al-Kinani
-- Ahmad Muthana Gasim al-Ani

Al-Ahdal to be Released?

¶10. (U) The local press also reported that "well-informed sources" noted that Mohammed Hamdi Al-Ahdal (aka Abu Asm al-Makki), purported to be AQ's number two man in Yemen, who was sentenced to three and a half years in prison by the state security court, might soon be released. Emboffs are unable to confirm this report.

Comment:

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¶11. (C) Comment: While Legatt has been able to re-establish some lower-level ties with the AG's office, post will continue to work towards re-establishing regular ties with higher working-level officials such as Assistant AG Sharaf ad-Din Mahbashi who is directly charged with supervising terror trials. To date, despite numerous efforts post has been unable to meet with him.

¶12. (C) Comment Continued: On the rash of trials in recent months, it is encouraging to see the ROYG utilize its judiciary as it begins to clear out cases -- some having been around for several years. There is one point of concern. Although the PSO is finally handing these cases to the AG's office for prosecution, it does not pass over all available evidence with the files and sometimes only gives files with the names of the defendants. As such, the AG's office finds itself prosecuting cases on lesser -- but easier to prove -- charges such as forgery and fraud. This would not be an issue if Yemen did not suffer from weak legal precedent, the lack of a specific terrorism law, or the absence of a sophisticated conspiracy/complicity theory in Yemeni jurisprudence, which would then allow for enhanced sentencing

in terrorist cases where a crime does not result in death or
injury.
Krajeski